

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	CASE NO. 1:07-CR-248-1
)	
Plaintiff,)	
)	JUDGE DAN AARON POLSTER
v.)	
)	
LAZARO DELGADO,)	<u>OPINION & ORDER</u>
)	
Defendant.)	

Pursuant to a plea agreement, Doc #: 15, Defendant Lazaro Delgado pleaded guilty to 1 count of conspiracy to possess with intent to distribute and distribution of cocaine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B) and 846. *See* Doc # 14; Change of Plea Minutes. Delgado was sentenced on December 11, 2007 to 210 months' imprisonment with 8 years of supervised release. Doc #: 19; Judgment. On May 5, 2019, Delgado filed the instant Motion Seeking Reduction of Sentence. Doc #: 47. In his Motion, Delgado argues that he is entitled to a reduction in his sentence pursuant to the First Step Act. *Id.* However, the First Step Act does not apply to Delgado because he was convicted of a cocaine offense, not one involving crack cocaine.

Under the Anti-Drug Abuse Act of 1986, the mandatory minimum prison terms for federal drug crimes reflected a 100-to-1 disparity between the amounts of crack cocaine and powder cocaine needed to trigger the minimums. *Dorsey v. United States*, 567 U.S. 260, 260 (2012). In 2010, Congress enacted the Fair Sentencing Act to reduce this disparity. *Id.* at 263. The Fair Sentencing Act applied only to those defendants who had been sentenced on or after August 3, 2010. *Id.* at 264. Section 404 of the First Step Act permits courts to impose reduced

sentences for any defendants still serving sentences for crack cocaine offenses, if those sentences were imposed when the pre-Fair Sentencing Act structure still applied. *See* First Step Act, PL 115-391; 124 Stat. 5194. Delgado is not serving a sentence for a crack cocaine offense. The Fair Sentencing Act did not change the penalties for cocaine offenses. Thus, Delgado is not entitled to relief pursuant to the First Step Act. Accordingly, Delgado's Motion is **DENIED**.

IT IS SO ORDERED.

/s/Dan Aaron Polster May 13, 2019
DAN AARON POLSTER
UNITED STATES DISTRICT COURT